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UNCLAS SECTION 01 OF 02 SANTO DOMINGO 002111

SIPDIS

SENSITIVE

DEPARTMENT FOR WHA/CAR (MCISAAC), L/LEI (TAYLOR AND FUENTES)
DEPARTMENT OF JUSTICE FOR CRIM/OIS (MAZUREK, ORJALES,
SOKOHL)
US MARSHAL SERVICE PLEASE PASS TO CHRIS DUDLEY
DEA FOR OF, OFI, DO, DCO

E.O. 12958: N/A

TAGS: [CJAN](#) [KJUS](#) [SNAR](#) [PREL](#) [DR](#)

SUBJECT: DOMINICAN COURT DENIES EXTRADITION REQUEST

REF: A. 04 STATE 267518

[1](#)B. SANTO DOMINGO 1971

[1](#)C. EMAILS EMBASSY SANTO DOMINGO TO/FROM L/LEI AND
DOJ/OIA

[1](#)1. (U) SUMMARY. On April 8, 2005, the Penal Chamber of the Dominican Supreme Court denied the USG request for extradition for Frank Alvarez. The denial was based on lack of sufficient information to identify the fugitive in court as the person the USG believes to have committed the crime in the United States. The extradition request was dismissed without prejudice and allows for the USG to resubmit an extradition request with supplemental information. Frank Alvarez was released from custody pursuant to the Supreme Court's decision. Embassy Santo Domingo supports the resubmission of an extradition request in this case. END SUMMARY.

[1](#)2. (U) On April 8, 2005, the Penal Chamber of the Supreme Court denied the USG extradition request for Frank Alvarez. Alvarez is wanted in the Western District of New York to stand trial on federal narcotics charges (ref A). The Court released the 30-page written decision in the case on April 11, 2005 (a copy will be pouched to L/LEI). In its decision the Court stated that there, "exists a reasonable doubt about the identity of the person requested in extradition." The Court stated that the extradition request listed the date of birth of the fugitive as July 21, 1968, whereas the birth certificate produced by the defendant listed a birth date of July 16, 1968. Secondly, the defendant presented to the Court a certification from the Dominican Migration authorities that stated that Ramon Amado Rodriguez Caceres (the name Alvarez uses in the Dominican Republic), did not enter or leave the country from December 1999 to the present date, leading the Court to conclude, "it appears that (Alvarez) had not left the country during the dates indicated by the requisitioning country."

[1](#)3. (SBU) In two different portions of the Court's decision, the phrase "for the time being" ("por el momento") is used by the Court in its denial of the extradition request. That phrase, according to the Asst. Attorney General who handles extradition cases, is the equivalent of a dismissal without prejudice. The USG is free to submit another extradition request for Frank Alvarez. The Asst. AG suggested that any subsequent request should contain affidavits identifying the fugitive based on surveillance photos and photos from the fugitive's Dominican identification card (cedula) and a fingerprint card, if available.

[1](#)4. (SBU) The Asst. AG also stated that privately she heard what distinguished this case from the previous two successful cases (ref B) was that the USG did not provide finger print identification for this fugitive. A review of the original extradition cable (ref A) stated that a fingerprint card was included as an exhibit in the extradition package, however, subsequent emails from L/LEI confirmed that no fingerprint evidence was provided in the extradition package that was delivered to the Dominican government.

[1](#)5. (SBU) At the request of Embassy Santo Domingo, the AG's office provided us with the Dominican identification card number (cedula number) that the fugitive is using in the Dominican Republic. Legat will use this information to obtain a copy of the photo from this identity document. The photo will be forwarded to the appropriate U.S. authorities in Buffalo, NY, so that identity affidavits can be prepared.

[1](#)6. (SBU) When asked in regard to procedure in future cases if it be would possible to request that a fugitive remain in custody while the USG attempts to provide supplemental information, the Asst. AG said that she could make the request but that she thought it unlikely that the Court would grant it. The Asst. AG told us that she will be more careful in the future in reviewing USG extradition packages for completeness before she requests Supreme Court hearings. We assured her that the USG has taken note of the Court's

decision and that we too will be vigilant in scrutinizing identification evidence prior to making any formal requests to the Dominican government.

17. (SBU) COMMENT. We are disappointed that Frank Alvarez is currently a free man. Nevertheless, the denial in this case was made on a legitimate legal basis; in indication that the Penal Chamber of the Supreme Court is taking its new role in extradition cases seriously and is meticulously addressing our submissions. Each extradition package submitted to the GODR will have to contain sufficient indices of proof of identification for each fugitive. Embassy Santo Domingo further recommends that DOJ/OIA submit a new extradition package for Frank Alvarez with supplemental identification information and support. END COMMENT.

18. (U) Drafted by Angela Kerwin. Further information on recent extradition cases can be found on our SIPRNET website at <http://www.state.sgov.gov/p/wha/santodomingo>.

HERTELL